IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 1009 of 1986
Date of Decision: 10.1.2007

M/s Prakash Roadlines Pvt. Ltd. ...Petitioner

Versus

M/s New India Assurance Co. Ltd. and another ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: None for the petitioner.

Shri L.M. Suri, Senior Advocate, with
Shri Neeraj Khanna, Advocate, for respondent No.1.

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order passed by the learned first Appellate Court on 7.12.1985 whereby the appeal filed by the defendant-petitioner was dismissed being barred by limitation.

The plaintiff filed a suit for recovery of Rs.3457/- on the allegations that plaintiff No. 2 booked the goods for transportation vide receipt dated 18.4.1979 from Faridabad to Bangalore. The goods were insured by plaintiff No. 1. The goods were destroyed when the same were in custody of the defendant-petitioner on account of fire in godown. Plaintiff No. 1 compensated the loss suffered by plaintiff No. 2 and sought the recovery of the amount from the defendant which was decreed by the learned trial Court vide judgment and decree dated 29.4.1995.

Though, I am of the opinion that the learned first Appellate Court should have condoned delay of one day in filing of appeal but having gone through the judgment and decree passed by the learned trial

Court, I do not find any justification for condonation of delay at this stage and to remit the matter to the learned first Appellate Court for decision on merits. The undisputed fact is that the goods were destroyed in fire when in custody of the defendant-petitioner in its godown. Therefore, no useful purpose would be served by remitting the matter to the learned first Appellate Court for decision on merits.

Consequently, the revision petition is dismissed.

10-01-2007 (HEMANT GUPTA)
ds JUDGE